

## TAPED

The License Commission held its regular monthly meeting at 6:00 p.m. on Wednesday, April 27, 2011, in the G.A.R. Room at City Hall. Present were Chairman Joseph Kelly; Commissioners Paul D. Sullivan, Bruce G. Dansby, Joshua J. Wood and Scott H. McDuffy and Alternate Commissioner Fred Fontaine. Also present were License Agent Capt. Emanuel Gomes; Asst. City Solicitor Kate Feodoroff; and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meeting of March 17, 2011.

A motion was made by Commissioner McDuffy to approve the minutes of the aforesaid meeting which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of May, 2011: Capt. Emanuel Gomes; Lieuts. Thomas LaFratta and Paul Bonanca; Sgts Frank Vardaro and Kenneth Lofstrom; Dets. Michael Schaaf, John Lonergan, James Smith and Ernest Bell; and Officer Scott Uhlman.

A motion was made by Commissioner Sullivan to approve the police officers as listed which motion was seconded by Commissioner McDuffy. All members voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:

- (a) **All Alcoholic Beverages (2 Permits)** – Annunciation Greek Orthodox Church – Despina Papadopoulos, Manager, for a Food Festival to be held on Saturday, May 14, 2011 and Sunday, May 15, 2011 from 11:00 a.m. to 11:00 p.m.

Present was Despina Papadopoulos, 444 West Elm Street, who stated the Annunciation Ladies Philoptohos have planned a small food festival and would like to have the liquor permits at the two day event which will be held indoors. Mrs. Papadopoulos stated she had spoken with Lieut. Barry who indicated he would not require a detail officer because they will not be parking vehicles across the street but she stated they will have a police detail inside.

A motion was made by Commissioner Sullivan to approve the two permits which motion was seconded by Commissioner Fontaine. All members present voting in the affirmative, the motion carried.

4. Hearing on the request from Campello Veterans Firemen's Association – James Badgio, Manager, to serve wine and malt beverages on the grounds outside the Club at 224 Clinton Street on the following dates:

**Sunday, May 29, 2011 from 11:00 a.m. to 6:00 p.m.** – Annual Softball Event to raise money for Children Events sponsored by the Club throughout the year.

**Saturday, September 10, 2011 from 12:00 noon to 6:00 p.m. (Rain date: Sunday, September 11, 2011) - Annual Chicken Bake**

Present was James Badgio, 77 Whitman Street, Hanson, who stated they would like to start an annual softball event with the Firemen to raise money. This will be held on May 29<sup>th</sup>. The September event is the Club's annual chicken bake. All beverages will be poured into plastic cups.

A motion was made by Commissioner McDuffy to approve the requests which motion was seconded by Commissioner Sullivan. All members present voting in the affirmative, the motion carried.

5. Hearing on the request from Mayra Lopez dba Ecuamerica Restaurant for a Common Victualer license at 74 West Elm Street.

Present was Mayra Lopez, 521 Warren Avenue and Dennis Castro, 103 Main Street. Mr. Castro stated he will be translating for his aunt, Ms. Lopez. Through Mr. Castro, Ms. Lopez stated she is asking for a permit to open her first restaurant which will be at 74 West Elm Street. The location was previously licensed as a restaurant. She will be serving Ecuadorian and American food. She has had all of the inspections with the exception of the Fire Department which is supposed to be there tomorrow morning.

A motion was made by Commissioner Dansby to approve the license pending receipt of the required inspection approvals. The motion was seconded by Commissioner McDuffy. All members voting in the affirmative, the motion carried.

Chairman Kelley stated for the record that Commissioner Wood had just arrived.

6. Hearing on the request from KFC U.S. Properties, Inc. to transfer the Common Victualer license at 875 North Montello Street to D.E. Foods, LLC dba Kentucky Fried Chicken.

Present was Dan Whitney, who stated he works for D.E. Foods, LLC, 170 Olde Forge Road, Hanover.

Mr. Whitney explained that KFC is selling the North Montello Street restaurant to a local franchisee. All of the inspections have been completed and paperwork is in order. Everything will remain the same for now but he stated they hope to remodel sometime next year.

A motion was made by Commissioner Fontaine to approve the transfer. Attorney Feodoroff explained to Mr. Fontaine that inasmuch as Commissioner Wood has now arrived, he will have to sit only as an alternate. Chairman Kelley explained to Mr. Fontaine that he can participate in the discussion, however, he can only vote if one of the regular members cannot take part in a matter.

A motion was made by Commissioner McDuffy to approve the transfer of the license which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

7. Hearing on the request from Nivniva, LLC dba Brockton East Side Package Store – Oahh Bich Quach, Manager, to transfer the All Alcoholic Package Store license at 469 Centre Street to KHP Enterprises, Inc. dba East Side Package Store.

KHP Enterprises, Inc. requests approval of the following:

1. To appoint Malkiat S. Gill as the manager; and
2. To pledge the license.

Representing the transferee was Attorney William Goldberg, 620 Massachusetts Avenue, Cambridge. Also present were Malkiat Gill, 60 Beacon Park and Mr. Patel, the manager, representing the present licensee.

Attorney Goldberg reviewed the requests and stated there will be no changes to the operation. Hours will remain the same and there will be no renovations. Mr. Gill has extensive experience in the sale of alcoholic beverages. He owns a store in Avon and also currently owns Bridgeway Liquors in Brockton. The store in Avon is being sold to help finance this purchase. Attorney Goldberg stated that there will be a pledge of the license to Leader Bank as a condition of the sale.

Mr. Gill stated all employees are trained and certified in an alcohol servers program.

A motion was made by Commissioner McDuffy to approve the transfer of the license which motion was seconded by Commissioner Wood. All members voting in the affirmative, the motion carried.

A second motion was made by Commissioner Sullivan to approve the appointment of Malkiat Gill as the manager and to pledge the license which motion was seconded by Commissioner McDuffy. All members voting in the affirmative, the motion carried.

8. Hearing on the request from Fernandez Family Liquors, Inc. – Jose M. Fernandez, Manager, to transfer the All Alcoholic Package Store license at 127 Pleasant Street to Golab Corporation dba Fernandez Family Liquors.

Golab Corporation requests the following:

- (a) To appoint Harun Ur Rashid as the manager;
- (b) To pledge the license, stock of the corporation and inventory.

Present was Attorney John McCluskey, 932 Main Street and his client, Harun Ur Rashid, 4 Bayberry Lane, Randolph. Also present was Jose Fernandez, 87 Highland Street, Stoughton.

Attorney McCluskey reviewed that he had been before the board on a transfer of this license several months ago but due to some economic glitches, they were unable to go forward with the sale. Golab Corporation is the new applicant and Mr. Rashid is the principal of the corporation. He is purchasing the business from Mr. Fernandez. It will be run the same way as in the past with the same hours of operation. The hard alcohol will be stored behind the counter. This is the same set up as the present owner. Attorney McCluskey stated there will be two employees on duty 90 percent of the time. Mr. Rashid is in the process of becoming TIPs certified and has been involved as an assistant manager at other similar type stores and is well suited for the management of this location. He will be a full time manager and meets the credentials required.

A motion was made by Commissioner Dansby to approve the transfer of the license which motion was seconded by Commissioner McDuffy. All members voting in the affirmative, the motion carried.

A second motion was made by Commissioner Sullivan to approve the appointment of Harud Rashid as the manager. The motion was seconded by Commissioner Wood. All members voting in the affirmative, the motion carried.

9. Hearing on the charges brought by the local police against RJA Corporation dba Joe Angelo's Café – Carl Simmons, Manager, 216 Main and 11 Crescent Streets, of the following alleged violations:

**A. August 24, 2010, 3:40 p.m. and August 25, 2011, 3:30 p.m. and 8:22 p.m.**

**Brockton License Commission Rule #22**, to wit: “All doors and windows shall remain closed at all times from 12:00 noon to closing.

**B. October 23, 2010, 1:58 a.m.**

1. ABCC Rule 2.05(2), to wit: “: “No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible whether present or not.”,

2. M.G.L. Chapter 138, Section 63A, to wit: “Any person who hinders or delays any authorized investigator, inspector or any other authorized agent of local licensing authorities in the performance of his duties...”, as a result of the incident reported on October 23, 2010.

**C. March 12, 2011, at approximately 2:00-2:30 a.m.**

1. **ABCC Rule 2.05(2)**, to wit: “No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible whether present or not.”

Said charge arose from an incident in which two female patrons of the establishment, Emily Rodrigues and Helen Vicente, were each charged with disorderly conduct, A & B with a dangerous weapon and Mayhem after Vicente broke a Heineken bottle and stabbed Rosa Barros causing a severe laceration to her eye and on her arm.

2. **ABCC Rule 2.05(2)**, to wit: “No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible whether present or not.’

Said charge arose from an incident in which another patron of the establishment, Tanya Barbosa, was arrested for disorderly conduct, resisting arrest and interfering with a police officer in the performance of his duties. This individual refused to leave the area, was loud and attempting to provoke a fight and was creating a riotous situation.

3. **ABCC Rule 2.05(2)**, to wit: “No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible whether present or not.”

Said charge arose from an incident in which another patron, a highly intoxicated George Siamantouras, received a serious stab wound to his back as he was leaving the establishment at closing time. The injuries resulted in hospitalization.

4. **ABCC Rule 2.05(2)**, to wit: “No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible whether present or not.”

Said charge arose from the disorderly conduct of patrons leaving the establishment at closing time. Four arrests were made for charges including disorderly conduct, resisting arrest, interfering with police officer in performance of his duties, assault and battery with a dangerous weapon and disturbing the peace as a result of the fights, disturbances and serious injuries to individuals. Twelve (12) Cruisers and sixteen (16) police officers were dispatched to the location as a result of the fights and disturbances by patrons of Joe Angelo’s at closing time.

5. **M.G.L. Chapter 138, Section 69**, to wit: “No alcoholic beverages shall be sold or delivered on any premises licensed under this chapter to an intoxicated person.”

Said charge arose from the behavior of the patrons leaving the establishment at closing time which is indicative of over consumption of alcoholic beverages.

- D.** The Commission will hold a further hearing pursuant to M.G.L. Chapter 138, Section 12 to determine the public need to decrease the hours during which sale of alcoholic beverages may take place in your establishment based on the following:

1. The frequency of arrests, disturbances, calls and incidents requiring police involvement both inside and outside your establishment at closing time, including but not limited to the five incidents referred to above; and
2. The number of police officers and cruisers that have been required to respond to the incidents at the licensed establishment and the time spent at such licensed premises, making them unavailable for other public needs throughout the City.

Representing the licensee was Attorney John F. Creedon, 71 Legion Parkway

Attorney Feodoroff explained that in view of the number of violations, she would present each item separately, calling on witnesses for each and then Attorney Creedon can present his witnesses on each for rebuttal or testimony.

Attorney Creedon asked the board to keep an open mind in view of the number of violations alleged. He then stated that since Attorney Wood is the only licensed lawyer on the board, he would like for each member to consider not whether an incident took place but whether Mr. Angelo or the management permitted or allowed the violation. He then presented the legal definitions of the words “permit” and “knowingly” taken from Black’s Law dictionary which he stated is the authority on legal words and asked the commission members to keep an open mind on each of the charges as it relates to Joe Angelo.

Jeffrey Summers was present and indicated he is not a witness but would like to speak in opposition. Attorney Feodoroff informed him that they would hear from him at the end.

The following persons were sworn by Attorney Feodoroff:

Joe Angelo, 10 Arborview Terrace, West Bridgewater  
Det. George Almeida, Brockton Police  
Det. Tom Hyland, Brockton Police  
Lieut. Paul Bonanca, Brockton Police  
Det. James Smith, Brockton Police  
Sgt. William Hallisey, Brockton Police  
Officer Scott Uhlman, Brockton Police  
Lieut. Thomas LaFratta, Brockton Police.

The first witness called by Attorney Feodoroff was Officer Uhlman who stated he is a Code Enforcement Officer and License Agent. On August 25, 2010, at approximately 3:30 p.m., he observed the rear door to Joe Angelo’s open. He took photographs of the open door and submitted them to the License Commission. He stated this is a violation of Brockton License Commission Rule 22 which states, “All doors and windows shall remain closed at all times from 12:00 noon to closing.” At 8:22 p.m. on the same day, he, again, observed the rear door propped open. On August 24, 2010, Officer Uhlman stated he had been contacted by Officer Bunker that the rear door of Joe Angelo’s was propped open. Officer Uhlman stated he did not speak with Mr. Angelo on either occasion.

Attorney Feodoroff requested the report be marked as Exhibit "1".

On cross examination by Attorney Creedon, Officer Uhlman stated it is his understanding that the purpose of Rule 22 is to keep loud music from emanating from the establishment. He did not hear any music coming from the establishment. He had asked another detective to speak to Mr. Angelo but is not sure if this was done. Officer Uhlman stated he had turned the report in to the License Commission on August 26<sup>th</sup>.

Attorney Feodoroff suggested that perhaps the rule was so the owner of the bar knows who is going in and out of the bar at any give time and Officer Uhlman indicated this could be.

Attorney Creedon asked if it would be possible on each violation to take a vote and to hold any sanctions until later. Chairman Kelley indicated they would prefer to hear all of the violations. Attorney Creedon asked if this might prejudice them from hearing all of the other things before they focus on each of the cases and stated that the notice states there will be a full and fair hearing. In his opinion, it would be fuller and fairer if the commission votes without prejudicing themselves on the next hearing of evidence. Attorney Feodoroff stated there is no obligation on the Commission to take a vote after each violation is heard. She stated they have to assess for themselves whether or not they are able to treat each violation separately. She indicated this would make things move more smoothly and, in addition, the evidence for items C and D will have overlapping testimony because each of the officers she calls on for the March 12<sup>th</sup> incident have responded to Joe Angelo's in the past. Chairman Kelley stated he would like to proceed and will come back at the end to discuss each on its own merit and come to a decision.

The next witness called by Attorney Feodoroff was Lieut. Thomas LaFratta

Lieut. LaFratta stated he is a detective and has been employed as a Brockton Police officer for 25 years. He submitted a report dated January 27, 2011 which related to an incident that occurred on October 23, 2010 when just before closing at 2:00 a.m., a patron was leaving Joe Angelo's Bar and another patron ran him over. After viewing the video, it was his determination that it was an intentional act. On October 28, 2010, Mr. Angelo and one of his employees, Al McCarthy, allowed him to view the video again. He told Mr. McCarthy that he needed a copy of the video because there would be a criminal case and was assured he would be given a copy of the video. A few days later, Lieut. LaFratta stated he went back and was told that the video had been next to the register and it was gone. Several more attempts were made to get the video and Lieut. LaFratta stated he was only given excuses as to why they didn't have the video for him. On one occasion, Lieut. LaFratta stated he pulled up to the rear of Joe Angelo's and he saw Al McCarthy on the deck. When Al McCarthy saw him coming he ran inside. Lieut. LaFratta went inside looking for him, saw Mr. Angelo and informed Mr. Angelo that he was getting aggravated and that Mr. McCarthy was dodging him and would not give him the video. He further informed Mr. Angelo that if he didn't get the video soon, he would have no choice but to write a report stating the establishment is not cooperating with police in this investigation. To date, no video has been provided.

On cross examination by Attorney Creedon, Lieut. LaFratta stated he did view the video five days after the incident. He had a couple of conversations with Mr. Angelo. On one occasion,

Joe stated he would get him a copy of the video and said he always cooperates with the police. Joe had taken his name and number and said he would call which he never did. On another occasion, Mr. Angelo told him he didn't know how to get the video. His response to that was that Lieut. Bonanca had been able to retrieve a video through Al McCarthy who works for Joe Angelo. Lieut. LaFratta stated Mr. McCarthy had the keys to Mr. Angelo's office so he assumed he was an employee.

In response to questions from Commissioner Wood, Lieut. LaFratta stated that the police were there on October 23<sup>rd</sup>, but he is not sure who called them. A Cowen's Cab driver, Greg Porter, was parked outside and he may have been the first one to call police. A report on the cab driver's information had been submitted. It was also Mr. Porter's impression that the hit and run was an intentional act by the driver to hit the pedestrian. There was no evidence that had turned up in his investigation to indicate Mr. Angelo knew of any ill will between the two parties before they left the bar. Lieut. LaFratta stated when he had viewed the video he had seen what led up to the incident which had nothing to do with the person who got run over.

Attorney Feodoroff stated the purpose of her questioning of Lieut. LaFratta was not for the disturbance but for the lack of cooperation relevant to the video. She informed Commissioner Wood that she had decided not to proceed on item B(1) – ABCC Rule 2.05.

The next witness called by Attorney Feodoroff was Lieut. Paul Bonanca who stated he has been a Brockton police officer for 15 years. He stated in late August he had requested a video of the incident involving the firefighter. The video was furnished to him by Al McCarthy. When he first received the DVD's, he couldn't view them. He later discovered that either Mr. Angelo or Mr. McCarthy had dealt with a Steve Lanis, the owner of Legion Parkway Cleaners, who had produced the video tapes for Al McCarthy. Lieut. Bonanca stated he originally believed that Al McCarthy had developed the videos. Mr. McCarthy had first shown him the video of the incident in Mr. Angelo's computer room. He had spoken with Mr. Lanis who had gone to Joe Angelo's and produced the DVD's.

In response to questions from Attorney Creedon, Lieut. Bonanca stated Mr. McCarthy had handed him the DVD and it was his perception that he was the one who had downloaded it. It was after a few months that he discovered Mr. McCarthy didn't access the DVD's himself but had someone from the outside download them.

Attorney Creedon then called on Joe Angelo who stated he has always cooperated and that anything the police needs, he gives to them. He stated Mr. McCarthy does not work for him and has never worked for him. He hangs around the bar and he is the electrician who put the system in. He does not know how to download the videos. Mr. Angelo stated Mr. McCarthy did lie to Lieut. Bonanca by telling him he could do it and he lied to Lieut. LaFratta. Mr. Angelo stated he told Lieut. LaFratta he could take the computer like the State Police had done when the shooting happened five years ago. He stated he doesn't know how to make the videos and he doesn't even know how to turn the computer on. He told them it was they guy at the cleaners that knew how to do it. Lieut. Bonanca had dealt with Mr. Lanis before.

Mr. Angelo further stated that he has surveillance to protect him and everyone in his place. If something wrong happens, he stated he wants to show it. He stated he is not trying to hide anything. He had nothing to do with the hit and run accident.

Attorney Feodoroff then stated that she would proceed with the March 12<sup>th</sup> incident. Relative to items C and D, she indicated she would be calling the same witnesses and would like to take them together. Attorney Creedon stated as long as he has the date, he can go along with that. Attorney Feodoroff stated that for the March 12<sup>th</sup> incident as well as the multiple incidents, she would begin with Det. Smith.

On direct examination, Det. James Smith stated he has been a Brockton police officer for 26 years and is assigned on the 4 to 12 shift as a plain clothes detective. On March 12, 2011, he and Det. Hyland were working as license agents checking on licensed establishments. They went to Joe Angelo's near closing time. When they arrived they observed a lot of people around. He first noticed two individuals leaving the bar who are known to him, Nathan DaSilva and Michael Norton. He knows Michael Norton has been convicted of a gun charge. The two individuals came out of the bar and there was a group of approximately 20-30 people coming out of the bar behind them. He observed them walking towards the rear of the bar. When they got to the end of the fence, near the wall, a melee broke out. The crowd kept getting larger and larger due to the patrons exiting from Joe Angelo's. A big fight broke out and there were numerous combatants. Sgt. Hallisey called for more cruisers to respond and the crowd was finally dispersed.

Det. Smith stated that as he walked back towards his cruiser, he observed a young male individual with blood on his face. He stopped him and told him he was bleeding. He was not cooperative. At this time, Officer Kirby arrived and they detained the individual for his health and welfare. They placed him over by the wall behind Joe Angelo's and observed that he was bleeding profusely from his back. He was extremely uncooperative and was transported to the hospital.

Det. Smith continued and stated Det. Hyland was at the other end where there was a young lady who had been slashed in the face and arm by someone with a broken beer bottle. He did not deal with that incident.

With regard to the crowd, Det. Smith stated the crowd was extremely combatant. He stated there was something going on with the group as they were coming out of the bar. He is not sure whether there was an incident that had occurred inside the bar that he was not aware of, but they were extremely agitated and combatant. When he saw the two individuals and the crowd come out of the bar, his instincts told him something was going to happen. He did not know of any other fights. This was a volatile situation and the crowd was eventually dispersed. The whole shift responded as well as State police back up. He stated he believed there was someone in the crowd who had a knife.

On cross examination by Attorney Creedon, Det. Smith stated it is his understanding that several people were arrested that night. Det. Smith stated that when he is out at night, he wears a jacket that has a police patch on both arms, in the front and he has his badge. The first order of

business is to verbally announce that he is a police officer which he did. He does not recall seeing Joe Angelo that night. Sgt. Hallisey was on detail that night and he was coming out of the bar with the crowd.

Prior to dismissing Det. Smith, Attorney Feodoroff stated she would like to deal with item D. In response to questions, Det. Smith stated that over the past two years he has responded to Joe Angelo's about twice a week for both violent incidents and for non disturbances. He stated that if they are in the process of checking at another location in the City and hear a radio call that says there is a fight at Joe Angelo's, they would respond. It is not uncommon for him to respond to calls for problems at Joe Angelo's after midnight. The State Police have made it their normal practice to station themselves outside of Joe Angelo's at closing time on Friday nights in case of any major incident or disturbance because there is an expectation of violent incidents which have occurred at closing time.

In response to questions from Attorney Creedon, Det. Smith acknowledged that for many years the Brockton Police would be in the immediate area of the downtown liquor establishments at closing time as a preventive type of situation.

In response to questions from Commissioner Wood, Det. Smith stated he has no specific evidence that a fight did begin in Joe Angelos. He did not speak to Mr. Angelo and has no knowledge that any of the other officers spoke with Mr. Angelo on March 12<sup>th</sup>. He stated he deferred everything to Sgt. Hallisey.

Attorney Feodoroff then called Det. Thomas Hyland who stated he is a general detective on the 4 p.m to midnight shift. On March 12<sup>th</sup>, he arrived at Joe Angelo's just before closing with Det. Smith. Upon his arrival, he stated he observed a mass of people leaving out of the side entrance of Joe Angelo's and converging at the old BAT Bus Terminal. He stated he saw at least 70 people. There were a number of skirmishes and multiple police officers came in. He stated it was a tumultuous wave of violent behavior that started at Joe Angelo's and went all the way down to the back of the BAT Bus terminal. There were people throwing people, breaking beer bottles and someone showed a knife. He indicated there were multiple people chasing other people. It was not a one on one situation, it was multiple fights. Det. Hyland stated that he was trying to break up fights and move on. He couldn't make an arrest because people were grabbing on to him. He stated he constantly had to identify himself as a Brockton Police officer. He had his badge out and his jacket had Police emblems but it didn't matter. He then encountered two groups of women fighting with eight on two. He stated he would grab them, sit two down, they would get back up and start fighting again. One of them broke a Heineken bottle and jumped back into the crowd. He stated he didn't know what had happened but he reached in and pulled her out, smashed the bottle out of her hand and threw it to the ground. The crowd broke up. When he went down to the end of the BAT Bus terminal there was a young female who had a gouge that looked like her eye was going to come out. She described to him what he had just observed. There was another fight happening in the parking lot to the rear of that area which involved the same group of females who had come out of Joe Angelo's. Det. Almeida was dealing with this situation. Det. Hyland stated he feared for his own personal safety at the time. He did not make any arrests that evening. He took a brief report from the injured female but his major concern was to try and disperse the crowd. Over the course of ten minutes there were one

hundred people there and violence erupting all over the place. He stated all of the cruisers had been dispatched and responded to the fights at Joe Angelo's as well as the State police. Det. Hyland stated he had seen the stabbing victim placed in the ambulance but was not involved in that investigation.

On cross examination by Attorney Creedon, Det. Hyland agreed that the two incidents involving the women fighting, took place in the BAT Bus Terminal which is anywhere from 75 to 150 yards south of the deck. He did not see Mr. Angelo and he does not know who called police. He was there with Det. Smith as a pro-active measure which is a common practice.

In response to questions from Attorney Feodoroff, Det. Hyland estimated that during his eleven years as a Brockton Police Officer, he has responded to Joe Angelo's well over 50 times for both violent and non violent incidents. He has seen the State police parked outside of Joe Angelo's on more than 20 occasions.

Attorney Feodoroff then called Det. George Almeida who stated he has been a Brockton Police officer for eleven years. On March 12, 2011, he responded to Joe Angelo's as a result of Sgt. Hallisey's voice coming over the radio requesting more cruisers. There was urgency in Sgt. Hallisey's voice and he sounded distressed. Sgt. Carpenter and he arrived and upon his arrival, he saw an ambulance there and a second one was pulling up. He pulled up in front of the old BAT bus terminal on Crescent Street, positioned his vehicle and got out to evaluate what was going on. He first noticed the medical technician taking care of a woman with a laceration below her left eye. He then saw a male lying down in a small pool of blood. He was told the guy had been stabbed. Det. Almeida stated he received information from another officer who told him that male had been sitting on the wall bleeding out and was so drunk he didn't even know he had been stabbed. When he and Sgt. Carpenter arrived, there were still people exiting from Joe Angelos, however, most were outside. He and Sgt. Carpenter had responded from the Village area after hearing Sgt. Hallisey's call. When they arrived he observed fights occurring all over the place. He observed several uniformed officers running down the old BAT Bus Terminal and there were a lot of skirmishes going on. He noticed Officer Cole and Det. Carpenter bolting over behind 43 Crescent Street which is the School Administration Building. He stated he could see urgency in their steps and so he also went in that direction. When he got there, Officer Cole was standing behind Helena Vicente and there were about eight other females who were intent upon getting her and Emily Rodrigues. When Emily saw him she called his name stating they were going to get her. The eight females continued screaming and yelling profanities. One female was intent on getting to Emily and he had to push her away. While he was standing there trying to protect Emily Rodrigues she said to him that they were in Joe Angelo's and these Boston girls came up and started trouble with them and when they came out, they were attacked by them. The girls began yelling she cut my cousin. At that point he couldn't break away from her because the eight females were going to get her. He called Officer Frank Czarnowski over and told him those were the key witnesses. He told him to grab them and get a statement and he let him know she was arrestable but to get statements because they have their assailants. Three females were arrested and taken away.

After the females were arrested, Det. Almeida stated he went back towards Joe Angelo's and things had calmed down significantly. The officers were talking and comparing notes and trying

to assess what had just happened. As he was walking back, he notice there was one particular male who could barely stand because he was so inebriated. Another male came up and apologized and said he would take care of him.

On cross examination by Attorney Creedon, Det. Almeida stated it was his understanding that the problems had started inside but he doesn't know if it was just verbal or physical. Emily had said to him that the girls had started with them inside. He has made previous arrests in the area for disorderly or creating a disturbance. In response to Attorney Creedon, Det. Almeida stated the females were speaking English and were very loud

In response to questions from Attorney Feodoroff, Det. Almeida stated he absolutely felt his personal safety was at risk especially when he went to the rear of 43 Crescent Street where there were females screaming and males behind them yelling. During the eleven years he has been a police officer, he has responded to Joe Angelo's well over 50 times, both pro-actively and re-actively. He explained that as far as pro-actively, Lieut. Bonanca makes it a point, especially on Fridays and First Fridays, to have them go there at closing as a pro-active measure, to try and make sure there are no disturbances. He stated the clientele of Joe Angelo's is diverse and runs a gamete between those who in the City in the criminal underworld to jocks and college students. The police go there to keep a close eye on the place because it is a common occurrence that something bad will happen. He is familiar with the night referred to as "First Friday" and stated it attracts large crowds susceptible to violent incidents. He has seen the State Police parked outside Joe Angelo's on many occasions and the Brockton Police have needed their assistance to help with crowds from Joe Angelo's. .

Attorney Creedon asked if Det. Almeida knows whether the State Police or Brockton Police hang out at the Brockton High School pro-actively to avoid stabbings and things that happen there during the day. Det. Almeida indicated at dismissal the School Police patrol the property.

The next witness called by Attorney Feodoroff was Sgt. William Hallisey who stated he has been a Brockton Police officer for nine years and is a sergeant working the day shift. He stated he usually works the detail at Joe Angelo's on Fridays, depending on the function, and always works the detail on First Fridays. He stated that a large crowd is expected on First Fridays. As far as any problems on First Fridays, Sgt. Hallisey stated they did have a shooting outside the establishment about six years ago.

On March 12, 2011, Sgt. Hallisey stated he was working the detail at Joe Angelo's. He knows many of the patrons. He stated Michael Norton and Nathan DaSilva are both regular customers at Joe Angelo's. At the end of the night he asks the bouncers what they have seen because at the end of the night is when any trouble with happen. On March 12<sup>th</sup>, there had been approximately 150 people in Mulligan's which had been emptied and there were 75 people in the bar. He stated he saw Michael Norton and Nathan DaSilva leaving and this made him wonder what was going on because they are usually the last ones to leave the bar and now they were leaving with 70 people still inside. He said he started to follow them and went outside behind the deck. He saw Dets. Smith and Hyland who had been there earlier and had used their vehicle to block the entrance off to the bus terminal. Sgt. Hallisey saw that there was a fight involving fifteen males which was being broken up and then he could see the fights involving all of the women who

seemed to be out of control that night. The females were moving farther down the BAT Bus terminal swinging and yelling. He stated 90 percent of the fights involved groups of females fighting other females. Officer Kirby told him the ambulance had been called for a stabbing victim. He then saw the female who had been cut by the broken Heineken bottle. He called in for more police backup to respond when he saw the males fighting.

Sgt. Hallisey stated one bouncer's job is to stand at the door watching for anyone taking bottles out. It is possible that a bottle could be taken out particularly at closing. There are six bouncers. He stated they pat people down as they enter the establishment but not when they are leaving. Sgt. Hallisey stated he has worked many bars. Some bars do use plastic cups.

On cross examination by Attorney Creedon, Sgt. Hallisey stated he is in uniform when working the detail. There is a security team working on nights when there are functions. There is usually a cover charge but he was unsure if there was a cover charge on March 12<sup>th</sup>. Neither he or the bouncers had seen any problems inside on March 12<sup>th</sup>. He estimated the crowd peaked at 200 that evening. He indicated it is not uncommon for people to come in and out and drink out in their car. Some nights there are two exits but on March 12<sup>th</sup> there was just one exit. He stated Mr. Angelo has told him to call for help any time there is a problem. He stated the whole shift had responded that evening which is not unusual when something like that happens. Mr. Angelo had no control over this. Sgt. Hallisey stated that Mr. Angelo and his wife are on premise most of the time. He estimated between eight or ten cruisers responded that evening. Mr. Angelo has always been cooperative.

In response to questions from Attorney Feodoroff, Sgt. Hallisey stated it is difficult to say how many times he has witnessed incidents of violence on First Fridays. He stated there are large crowds and fist fights do happen. He stated that other than the shooting six years ago, there has been no other incidents of violence with the exception of someone being shot in the back parking lot behind the phone company a couple of years ago and he ran up to him for help. With regard to First Fridays, Sgt. Hallisey stated that usually the number of patrons is shut down when it reaches 350 depending on the crowd. Attorney Feodoroff reminded Sgt. Hallisey that he has testified in the past that it has been so crowded people are shoulder to shoulder. He agreed that when it is crowded like that it makes it difficult for the detail officer to walk through the bar. On March 12<sup>th</sup>, he could get through the bar. If a fight does break out, there is usually room to get through. Attorney Feodoroff asked Sgt. Hallisey if he had testified four weeks ago at a hearing in Federal Court that sometimes they are packed in like sardines. He stated they do get packed in but you can still get through the crowd.

Attorney Feodoroff stated that the City will rest.

Attorney Creedon stated Mr. Angelo would like to make a statement. Mr. Angelo stated he has been at this location for nineteen years. The doors are always open and there are no neighbors to bother. He stated he did not know that keeping the doors closed was a law. Until he got the violation notice, he did not know there was any violation. He feels that Officer Uhlman should have told him he was breaking the law and feels he needs communication with the police and that he is not the enemy here. He is just trying to make a living in downtown Brockton. He stated he has not had one violation in 19 years.

Mr. Angelo further stated that the police are treating him like he is the enemy and he doesn't want to be treated that way.

Attorney Creedon stated he wants to make it clear to the board that Mr. Angelo has always been cooperative with the police. Al McCarthy does not work for him and he is just a guy who hangs around. He did install the system but he doesn't know how to download. He thought he did but he didn't and if he could, the police would have had the video. Mr. Angelo stated he wasn't trying to hide anything. Mr. Angelo stated he wants his place to be safe and he'll do anything they want him to do. His kids and wife work there and he wants them all to be safe.

Mr. Angelo then stated there is no one present tonight who comes in his place because nobody comes to downtown Brockton. He stated he has always called police as soon as anything happens and the police have been very helpful. Mr. Angelo stated there have not been more than 250 people in the establishment since the shooting occurred five years ago. He indicated it might appear that way because everyone wants to get close to the disc jockey and the dance floor. Mr. Angelo commended Det. Smith for saving the life of the individual who had been stabbed on March 12<sup>th</sup> and stated he had witnessed the whole thing. He appreciates everything the police officers do and if there is a solution to this, he is all for it. He indicated there is security at the door and no one gets out with any alcohol. He stands on the deck and watches everything at closing time.

Mr. Angelo stated nothing happened inside his establishment that evening. He could not have done anything different that night. March 12<sup>th</sup> which was not a First Friday and what happened could have happened anywhere. Mr. Angelo stated they have a large crowd maybe twice a month but not every week. He stated they have no way of knowing how many are going to show up. There are people in their forties at his functions.

In response to questions from Attorney Feodoroff, Mr. Angelo stated they have different promoters. He stated they have a Cape Verdean Soccer Club. There is a promoter for First Fridays who came in approximately a year and a half ago. Mr. Angelo stated First Fridays started about five years ago and he discontinued them for about three years after the shooting occurred because that had scared him. Attorney Feodoroff asked Mr. Angelo if he had told the police he wasn't giving them anything anymore after he was asked for a video after a more recent hit and run accident. Mr. Angelo stated he had told them he wouldn't give it to them without a subpoena which is what his attorney told him to do. Attorney Feodoroff reminded him that a subpoena is not required in order to cooperate for the purpose of his license. Mr. Angelo stated he did not know this and this is why more communication is needed. Mr. Angelo stated at one time he had plastic cups in his bar but he stopped that practice. The promoter for First Fridays advertises in his establishment with flyers and on the internet. He indicated it is the same people who come every month. He has had violent incidents outside his establishment prior to midnight. At the present time, Mr. Angelo stated that the doors are shut at 1:00 a.m. and no one is allowed inside.

Chairman Kelley stated that he would like to open up comments from the Commissioners but prior to that, he asked if any of the City Councillors present would like to speak.

Councillor Thomas Monahan, Ward Two, stated he and Councillor Denapoli met with Mr. Angelo after the recent events. Mr. Angelo has indicated he wants to work with the City and to meet with the police chief, the downtown councillors, the council president and the Mayor's office to see what he can do to improve his business and not have these incidents. Ninety percent of the time, there are numerous fundraisers taking place at Joe Angelo's. Councillor Monahan stated that Mr. Angelo had offered his place to his family and helped raise \$15,000 for his son who has an incurable disease. Mr. Angelo gives back to the community. Councillor Monahan indicated it is his understanding that Mr. Angelo will discontinue First Fridays. There are only three downtown businesses with entertainment at this time and Councillor Monahan indicated he will accept whatever the Commission decides to do. He feels that if the Commission rolls back the hours to 12 or 11, it will just kill another downtown business. Councillor Monahan stated he has talked to the Mayor's office and the police chief and the councilors and they are going to try to see how he can improve his business and alleviate the problems. Councillor Monahan also stated that he has told Mr. Angelo if he is rolled back and then allowed to go back to 2:00 a.m., he should close his doors at 12 or 12:30 a.m. because half the problem is with people coming in from other bars and other cities.

Councillor Paul Studenski, Ward Four, stated he would like to echo the sentiments expressed by Councillor Monahan and let the board know that Mr. Angelo did contact the Council president and has spoken with the downtown councilors. The regular operation is not the same as the First Friday events.

Councillor-at-Large Jass Stuart, stated he understands there is a movement to roll all of the licenses back to 1:00 a.m. and he is not in favor of that and feels this would be detrimental and they have to make sure businesses in the City are kept functioning. Councillor Stuart stated he had obtained fifteen years of Annual Reports from the License office and has been analyzing them for the past six months. He stated it is disturbing to him how this board as a body, and not specifically the current members, has enforced the ordinances and how punitive they have been to some businesses and not to others. He stated although he does not support a blanket reversal of hours for the business, he stated he does feel that a law is no longer a law but a tool if it is not applied equally. He indicated this is incredibly concerning if the law is applied to certain businesses and not to others. He stated he has been to Joe Angelos and has always felt safe when he has been there. He has been to other establishments which have not been treated equitably based on the information contained in the reports. He encouraged the board to the fullest extent of their practice and ability to restrict operations at this establishment based on practices of other businesses where they have made judgment on similar cases and from there, to put into place a process that is equitable and the latitude of the decision isn't so strikingly disproportionate.

Chairman Kelley asked if anyone else would like to speak and advised them that their comments would have to be restricted to what is before the board today.

Jeffrey Summers, 51 Grace Street, Malden, stated he just wanted to give the board a history and reported to the board that this is not the first incident for Joe Angelo's and he would like to see them receive the same punishment as his business received as well as The Tekoah and Tiger's Den. He stated they were all recently punished. Chairman Kelley reminded Mr. Summers that he asked him to address a particular incident before the Commission this evening. He asked him

what charges he wanted to be heard on. Mr. Summers stated this is not the first incident and would like to go down the line of incidents from this establishment. Chairman Kelley stated there is an agenda and referred to the agenda.

Mr. Summers stated to the Chairman that when Councillor Monahan spoke, he spoke about incidents that happened a long time ago. Chairman Kelley stated that he had asked him before he spoke to stick with the issues on the agenda. Mr. Summers again stated this is not a first time offender and stated that his license was rolled back in February 2010. At this point, Chairman Kelley stated this is an open hearing and he must speak about a particular item on the agenda and it is not about Progressions. A copy of the agenda was provided to Mr. Summers. He stated that all of the incidents on the agenda are very violent and they all put the City in grave danger. At the time his license was rolled back, Mr. Summers stated that Chairman Kelley had told him that the City has limited resources of Fire, Ambulances and Police and if the whole police force is at a particular establishment it leaves other places without coverage. Chairman Kelley stated he is not denying that but again requested Mr. Summers speak to the matters on the agenda.

Mr. Summers stated that in his six years in Brockton, there has never been another establishment that has come before the board with as many charges. He stated he was rolled back for much less. Chairman Kelley reminded him it is not about his establishment and that his testimony will end now.

George Murphy, stated he has lived here his whole life and has been in this business his whole life. He stated the reality of it is that the busiest places have the most trouble. When he opened up 40 years ago, there weren't guns and knives. He stated Mr. Angelo did not bring the guns and knives into the City and he runs a good place. Mr. Murphy stated that wherever these 300 people go next week, there will be the same amount of trouble. He stated Mr. Angelo runs a first class joint.

Lieut. Paul Bonanca asked to speak at this time and stated the police do a lot of work around the establishments, including Joe Angelo's, at closing time. He stated that the clientele is the problem and that the 2:00 a.m. closing at this establishment attracts a lot of people from Boston and other places outside the City and even outside the State. Lieut. Bonanca stated it is called "conventioners syndrome" which is people who come from outside the City and have no vested interest in the City, cause problems and disorder, and then just leave and go out of town. He stated that Brockton is one of the few places in the State where bars are open until 2:00 a.m. He indicated that a lot of the City's police resources are drawn to Joe Angelo's especially on weekend nights and they cannot cover the entire City with what has been given to this establishment. He stated that if there is a breaking and entering on the west side of the City, there is a possibility they will not be able to get there. They cannot leave their fellow officers in jeopardy in situations as reported at tonight's hearing where officers are surrounded by people. He indicated that if the stabbing victim had been stabbed two inches higher it would have been a homicide. His injuries resulted in the removal of his spleen. Lieut. Bonanca stated that on March 12<sup>th</sup>, his prime concern was whether it would end up involving a homicide. He stated he does not want what happened at Guido O'Shea's to happen at Joe Angelo's. He recalled that similar problems at Guido O'Shea's culminated in a homicide and Guido's no longer exists. He stated he feels a rollback of the hours is justified.

Attorney Feodoroff stated that clearly, the incidents at Joe Angelo's are numerous and there is a situation of continued violence at this establishment. She reviewed for the members that in their files are police logs of calls to Joe Angelo's which go back two years and show repeated incidents of violence. The number of calls for police response, especially at closing time, has required both State and Brockton police to park outside the establishment especially on Fridays and First Fridays. The evidence presented for the March 12<sup>th</sup> incidents shows the patrons are exiting from Joe Angelo's.

Attorney Feodoroff stated that it is her opinion that having the fight occur physically inside the bar is not what is required by law. She indicated tort law has defined this area of the law and the premises are to include those areas where control must be exercised. She suggested that if the premise is limited to the inside of the bar only then anytime something begins to erupt inside, the problems will be pushed right outside to protect the establishment. She stated this is not how the law is meant to operate and you can't close your eyes to a situation by pushing it out the door.

Attorney Feodoroff further stated that evidence clearly shows there were severely intoxicated persons which means over service of alcoholic beverages by the bar. She reviewed that the testimony presented indicated one person could not even stand up. She stated that Officer Hyland had testified that it appeared that people were chasing one another from Joe Angelo's to the exterior which also establishes the nexus. Attorney Feodoroff stated that in her opinion, the way to resolve the situation is to roll back the closing hour and indicated she is asking for a rollback to 12:00 midnight or, at the minimum, no entry after 12:00. It appears from the police logs that the majority of the violence occurs in the late hours from 12:00 on. She also asked the Commission to stipulate that there be no First Fridays allowed; no advertisement to attract the outside element to the City; a reduction of capacity and a counter to ensure the capacity is met. She further stated that she is asking that plastic cups be used to replace the use of glass because as Sgt. Hallisey testified, they cannot guarantee that no one leaves with a bottle as everyone exits the premises at closing time. She stated she is also asking that no drinks be served later than 15 minutes before closing and everyone out of the premises by 15 minutes after closing. Attorney Feodoroff stated there is a public safety issue as well as a public need to take these measures as Lieut. Bonanca has stated there is going to be a murder at Joe Angelo's. Attorney Feodoroff urged the Commission not to sit back this evening and with that she indicated she would leave the decision to their deliberations.

Attorney Creedon then indicated this is a situation where the board has the ability to do whatever it wants if they find violations between 11 p.m. and 2 a.m. He indicated he wants the board to remain unbiased in making their decisions on each charge. The law does not require a reasonable doubt as there is in Criminal Court but the standard is satisfactory proof and it has to have a reasonable relationship to the offending practice. He stated it is all about whether Mr. Angelo permitted, allowed or encouraged this to happen, whether he turned the other way or whether he had the ability to stop any of the incidents. Attorney Creedon stated he could not agree more with all of the police officers and Lieut. Bonanca that it is a tough situation that needs remedial action. Attorney Creedon advised the Commission members that they have to take the facts into consideration and he did not hear anything from the officers that put the incidents in or at Joe Angelo's and he disagrees with Attorney Feodoroff that the standard is whether or not they came from Joe Angelo's. He stated the standard is whether or not Mr.

Angelo personally permitted anything. He stated there is no real evidence of over serving and he does not think that the fellow who had been stabbed was disturbing anyone or causing any problem. Attorney Creedon stated they do not know if he was served at Joe Angelo's. He acknowledged that this is a bad public safety situation but cautioned the Commission not to be overwhelmed. He told the members not to lose their taken oath to find a satisfactory reason for holding Joe Angelo responsible. Attorney Creedon indicated that once they have made their deliberations on the violations, they can address whether there is some remedial action that can happen in the City to bars like Joe Angelo's.

With no further information presented, Chairman Kelley indicated that he will go back and read each of the charges and have discussion and decide the finding and then deliberate overall.

**A. August 24, 2010, 3:40 p.m. and August 25, 2011, 3:30 p.m. and 8:22 p.m.**

**Brockton License Commission Rule #22**, to wit: "All doors and windows shall remain closed at all times from 12:00 noon to closing.

With regard to the charge of violating Brockton License Commission Rule 22, Commissioner Dansby stated it is obvious the door was open, however, he is concerned that there was no communication by Officer Uhlman to the establishment to bring this to their attention. Commissioner Wood stated he, too, is concerned that Officer Uhlman went there the first time and saw the door open and told no one at the establishment and then went there on the same day at 8:20 p.m. and saw the same violation which could have been remedied if he had conversation with the owner on the first time. He indicated there is no doubt that the doors were open. Chairman Kelley stated that he feels a first violation such as this is can be dealt with administratively in the future with a communication process to let them know without holding a hearing. He indicated there are other establishments with similar situations.

Commissioner McDuffy stated he agreed and perhaps a word to them or a phone call could have changed things. He then stated that the law is the law and the doors and windows have to be closed.

A motion was made by Commissioner McDuffy to find a violation of Rule 22. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried. It was agreed that no action would be taken on this violation.

**B. October 23, 2010, 1:58 a.m.**

1. ABCC Rule 2.05(2), to wit: "No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible whether present or not.",

Attorney Feodoroff did not go forward on this charge.

2. M.G.L. Chapter 138, Section 63A, to wit: “Any person who hinders or delays any authorized investigator, inspector or any other authorized agent of local licensing authorities in the performance of his duties...”, as a result of the incident reported on October 23, 2010.

Commissioner Wood stated he is concerned and not sure whether he understands the testimony of the officer and of Mr. Angelo on how he had CD’s in his possession on a past case. He indicated that maybe if that was clarified he would have a better understanding and be able to say whether or not the actions described were him standing in the way of a police investigation. He indicated that from what he heard, it wasn’t really clear if Mr. Angelo was involved in the production of the CD’s which would show a past knowledge of being able to produce the CD’s. He stated he is also concerned with Al McCarthy speaking for Joe Angelo’s but not really working there and he does not know what to make of that. He indicated he feels they need to come to some conclusion about that before deciding on whether there was a violation of obstructing justice by not cooperating with police.

Chairman Kelley stated there was some testimony that McCarthy was not an employee but he is a customer who installed the equipment but didn’t know how to operate the equipment. There were tapes turned over for one investigation and then refused on another occasion. He agreed that it is a little ambiguous.

Commissioner McDuffy reviewed that it is his understanding that the individual who was driving the vehicle had been a patron in the bar earlier, there was an altercation and he was told to leave. Commissioner Wood reviewed that the City is only going forward on the charge as to whether Joe Angelo failed to hand over the video and whether or not that was done with some type of intention to hinder the police investigation. Commissioner McDuffy indicated that is what he was going to continue on and he does not understand why the tape was not turned over unless they didn’t want it known that the individual was inside the bar. Commissioner Kelley stated the bottom line is that the video has still not been turned over. He asked if the video is available and Mr. Angelo spoke up that he doesn’t know how to get it.

Attorney Feodoroff stated it is their responsibility to ensure that the video is turned over to the police for their investigation however they accomplish that.

A motion was then made by Commissioner Dansby to find the license guilty of violating M.G.L. Chapter 138, Section 63A. The motion was seconded by Commissioner McDuffy. With Commissioners Dansby, McDuffy, Sullivan and Kelly voting in the affirmative and Commissioner Wood voting opposed, the motion carried, the vote being 4 to 1.

**C. March 12, 2011, at approximately 2:00-2:30 a.m.**

1. **ABCC Rule 2.05(2)**, to wit: “No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible whether present or not.”

Said charge arose from an incident in which two female patrons of the establishment, Emily Rodrigues and Helen Vicente, were each charged with disorderly conduct, A & B with a dangerous weapon and Mayhem after Vicente broke a Heineken bottle and stabbed Rosa Barros causing a severe laceration to her eye and on her arm.

2. **ABCC Rule 2.05(2)**, to wit: “No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible whether present or not.’

Said charge arose from an incident in which another patron of the establishment, Tanya Barbosa, was arrested for disorderly conduct, resisting arrest and interfering with a police officer in the performance of his duties. This individual refused to leave the area, was loud and attempting to provoke a fight and was creating a riotous situation.

3. **ABCC Rule 2.05(2)**, to wit: “No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible whether present or not.”

Said charge arose from an incident in which another patron, a highly intoxicated George Siamantouras, received a serious stab wound to his back as he was leaving the establishment at closing time. The injuries resulted in hospitalization.

4. **ABCC Rule 2.05(2)**, to wit: “No license for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible whether present or not.”

Said charge arose from the disorderly conduct of patrons leaving the establishment at closing time. Four arrests were made for charges including disorderly conduct, resisting arrest, interfering with police officer in performance of his duties, assault and battery with a dangerous weapon and disturbing the peace as a result of the fights, disturbances and serious injuries to individuals. Twelve (12) Cruisers and sixteen (16) police officers were dispatched to the location as a result of the fights and disturbances by patrons of Joe Angelo’s at closing time.

5. **M.G.L. Chapter 138, Section 69**, to wit: “No alcoholic beverages shall be sold or delivered on any premises licensed under this chapter to an intoxicated person.”

Said charge arose from the behavior of the patrons leaving the establishment at closing time which is indicative of over consumption of alcoholic beverages.

During discussion, Commissioner Wood indicated that he feels the issue for everyone no matter what side, is that they have been presented with evidence on someone who has taken fairly extraordinary steps to involve law enforcement such as paying a detail officer, creating a check out line at the exit so that only one person goes through at a time and the fact that a trained first responder who was in the bar did not notice any telltale signs that trouble was going to occur in the moments leading up to the exit. He stated there is an issue on whether or not reasonable

steps were taken by the license holder to avoid this. Commissioner Wood stated that he does not think they can blame someone for their clientele entirely but he disagrees with Attorney Feodoroff when she says it will encourage them to push someone out the door with an I don't care attitude. Commissioner Wood stated he does not feel that is what the evidence is. He said in past cases there has been evidence of someone being pushed out the door, not calling police and cleaning up blood stains so the police can't find it. In this situation, there was an officer inside who did not see this coming up. The question is to what extent does a bar owner who has much less training than police, defend himself against the natural outcome of having a lot of people in one place. He indicated he feels the rule is far too broad and punishes people before they have done anything wrong. His concern is for the people who are trying to do the right thing and taking reasonable precautions. He indicated that everyone probably has a position on that but that is the issue.

Chairman Kelley stated he feels that testimony has been heard from a number of officers who have had to respond on multiple occasions and he feels it is clear that a violent incident took place. Commissioner Wood indicated that the issue is whether he permitted the violent incident to occur and the question is did he take reasonable steps to prevent this and once he found out about this did he cooperate with the detectives to try to solve it and quell the situation. Commissioner Wood stated he did not hear any evidence from the police that Mr. Angelo did anything to keep the police from doing what they were doing.

Chairman Kelley indicated he feels it is clear that there has to be some responsibility on the part of the owner. Commissioner Wood stated he feels in this instance he did accept responsibility by having the police there and by playing by the rules that have been set out to him. He is paying for a police officer as well as a security team to be in the bar. Chairman Kelly asked Commissioner Wood if he feels there is no responsibility. Commissioner Wood indicated this is not what he said but wonders what he could have done differently to have avoided the situation. Chairman Kelley indicated that in some of the incidents, it could be the type of promoting that was done. Commissioner Wood stated he did not hear that there was any evidence about promoting for First Fridays that caused more people to come that would be relevant to their decision making regarding advertisement.

Commissioner Dansby stated he is concerned and feels they are creating a disruptive and explosive environment whether it be First Friday or just a general Friday night with the particular clientele. He stated that he was around during the Guido O'Shea days and he indicated this is a striking resemblance which is just building up and his biggest fear is that if they do not take action now, there will be a murder on their hands. He stated it is strikingly similar to the Guido O'Shea's situation.

Chairman Kelley then asked for some recommendations as far as findings on Items C (1) through C(5).

A motion was made by Commissioner Sullivan to find the licensee in violation which motion was seconded by Commissioner Dansby. With Commissioners Sullivan, Dansby, McDuffy and Kelley voting in the affirmative and Commissioner Wood opposed, the motion carried, the vote being 4 to 1.

Chairman Kelley then read the following items for consideration and discussion.

- D.** The Commission will hold a further hearing pursuant to M.G.L. Chapter 138, Section 12 to determine the public need to decrease the hours during which sale of alcoholic beverages may take place in your establishment based on the following:
1. The frequency of arrests, disturbances, calls and incidents requiring police involvement both inside and outside your establishment at closing time, including but not limited to the five incidents referred to above; and
  2. The number of police officers and cruisers that have been required to respond to the incidents at the licensed establishment and the time spent at such licensed premises, making them unavailable for other public needs throughout the City.

Chairman Kelley reviewed that these charges are basically about the strain being placed on the City and indicated he feels it is incumbent to do something to alleviate the strain.

Attorney Creedon indicated he feels that should come upon disposition on the other findings and Chairman Kelley stated it will.

Chairman Kelly reviewed that there have been statements made that Mr. Angelo has contacted the Council President and asked for a meeting with the Chief and the Mayor to see how he can assist in alleviating the problems and stated this is all good, however, he feels there is still an overall need to assist him in controlling the situation. In response to Commissioner Wood, Chairman Kelley stated they have to decide if there is a need to discuss the rollback of hours as it relates to the number of calls and the strain on City services.

Attorney Creedon stated this is not a violation charge but he knows it has to be addressed but it should be after they find if Joe Angelo's permitted the incidents.

Commissioner McDuffy pointed out that Lieut. Bonanca had stated that one of the problems with Joe Angelo's is the attraction of out-of-towners. In reviewing the reports, there are people coming from New Bedford, Boston and out of Brockton and he feels one of the reasons they are coming here is because of the 2:00 a.m. closing time. He indicated he feels that perhaps it should be changed that for a period of time.

Chairman Kelley reviewed that there are a number of findings overall and most have been violations and there is an issue which they need to have a conversation about the penalty phase. He stated that although he believes some things have to occur, they should do as they have done for other cases and address the group of violations as a whole and look at the penalty phase. In this case, he would recommend the license be rolled back for a minimum period of time to 1:00 a.m. He indicated he is throwing this out for discussion for the other members to weigh in on.

Commissioner Sullivan made a motion to roll back the closing hour to 1:00 a.m. The motion was seconded by Commissioner McDuffy.

Commissioner McDuffy asked if there is a period of time that would automatically set up for admittance, for the entertainment to end or for the drinks to stop being served.

Chairman Kelley stated they could have stipulation and indicated they could consider a specific time frame to be reviewed after several months. He also reviewed that Attorney Feodoroff had made other recommendations such as using plastic, the doors close at a certain time with nobody re-entering and they may want to add no First Fridays as everyone seems to think that might have been an issue. Commissioner Wood asked if this could be done even though none of the events heard happened on First Friday. Chairman Kelley stated that is what Councillor Monahan had talked about.

Attorney Creedon stated that they can't contradict Rule 8.

Attorney Feodoroff stated she disagrees and the Commission can make a special rule if they feel it is appropriate such as no entry, no further drinks before closing, specify the time when everyone has to leave. She indicated in this situation, they are not giving a standard license as the rules would govern and that they are dealing with a problem.

Attorney Creedon stated Mr. Angelo does not let anyone in after 12 midnight. Mr. Angelo responded that with his 2:00 closing, no one gets in after 1:00. Attorney Creedon also acknowledged that by agreement, people can do a lot of things.

Chairman Kelley then stated that if this is a 1:00 a.m. license they are looking to stop the entertainment at 12:30 a.m., no last call later than 12:45 a.m. and no patrons let in after 12:00. He stated he would make this in the form of a motion.

The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

Commissioner McDuffy asked if this would be for a period of time and Chairman Kelly stated it wasn't stipulated but generally do six months or whatever.

Attorney Creedon stated that has been the policy.

The Adm. Asst. stated it is usually at least six months if there are no further problems. Chairman Kelley stated this can be revisited.

#### 10. Communications

Communications had been distributed and were placed on file.

#### 11. Any other business to properly come before the Commission.

##### (a) Bertucci's Restaurant Corp. – Change in officers – Sign Form 43

The members signed a Form 43 for approval by the ABCC for the change requested.

- (b) Antonio V. Cardoso dba Malu's Lounge – Sign Form 43 – Resubmit to ABCC for reconsideration

A Form 43 was signed and will be forwarded to the ABCC for reconsideration

- (c) Request from Dana Nessen dba Avon Auto Brokers Two – 8 Montello Street, to amend Class II Used Car Dealer license to corporation, Avon Auto Brokers, Inc. at same location.

Paperwork being in order a license was signed for the change to a corporation.

- (d) Review and Vote on proposed "Policy" change based on recommendations from Capt. Gomes concerning establishments licensed under the provisions of M.G.L. Chapter 138, Section 12 (on premise).

Chairman Kelley reviewed Capt. Gomes recommendations made by memo dated March 21, 2011 as well as the drafted policy which includes the following:

The Brockton License Commission recognizes that the Brockton Police Department has been required to deal with a number of problems at licensed liquor establishments and it is imperative that corrective action be taken forthwith. Most problems occur at establishments with 2:00 a.m. closings.

**A. HOLDERS OF LICENSES WITH A 2:00 A.M. CLOSING HOUR:**

1. No patrons are allowed admittance after 1:00 a.m. Any patron leaving the establishment, which includes going outside to smoke, is not allowed to re-enter after 1:00 a.m.
2. All Entertainment must cease at 1:30 a.m.
3. Last call must be made no later then 1:45 a.m.

A violation of any of the above will result in an automatic one hour rollback of the closing hour as well as any other sanction(s) deemed appropriate.

**B. MANDATORY POLICE DETAILS BASED ON CAPACITY FOR ALL LICENSED/SPECIAL EVENTS**

- 1 Police Officer per 500 patrons (Outdoor setting with no alcohol)
- 1 Police Officer per 250 patrons (Outdoor setting with alcohol)
- 1 Police Officer per 100 patrons (Indoor setting with alcohol)

The above standards may not apply to all functions, however, this will be subject to review by the Brockton Police Detail Office. A written description of any event planned at a licensed

liquor establishment where over 100 persons will be present must be submitted to the Brockton License Commission and the Brockton Police Detail Office at least fourteen (14) days prior to the event.

The following types of events are excluded:

- Bereavement functions
- Events at private Clubs where only members and guests are in attendance

C. **REVIEW AND ENFORCEMENT OF ALLOWABLE CAPACITY**

Holders of Section 12 licenses (Restaurants, Hotels, General On-Premise and Clubs) shall have allowable capacities reviewed at the time of annual renewals and may be subject to a downward adjustment if justified by reviews.

D. **UNDER 21 EVENTS**

No Licensee shall permit any “Under 21 Night” in any licensed liquor establishment.

Mr. Chrismin Charlot, the owner of Tamboo, was present and asked to speak on this matter stating that it will impact his establishment.

Chairman Kelley stated that if the Commission votes on this, he would ask that the policy go into effect upon delivery of the notice to each of the establishments.

Capt. Gomes then referred to the section pertaining to police details based upon the capacity. He reviewed that numbers given are national standards to police departments and special event coordinators in special departments. He indicated these would be guidelines for the Commission to use for locations which have had particular problems and for events where special one-day licenses are granted.

Commissioner Wood asked who would be responsible for paying for the detail and Capt. Gomes indicated it would be paid by the establishment. Chairman Kelley indicated there would be some discretion left to the detail officer. Capt. Gomes stated again that these are just guidelines and the numbers could be increased or decreased by the Commission.

Chris Charlot, 15 Hoosic Drive, Canton, stated he feels the real issue is to address a situation. It is his opinion that bundling any businesses together to come up with an overall solution is not fair to a business that has not had any issues. Mr. Charlot stated he feels he should not have to have police because there is no need for this in his establishment. Chairman Kelley reminded him that it would be discretionary with the detail office and that they are just trying to establish some guidelines. Mr. Charlot stated he feels they should focus on the particular problem and the Chairman stated that at this time they are not focusing on a particular bar but on a situation for the City and a general policy.

Mr. Charlot indicated he wanted to state that his business has not caused a lot of problems to the City and he does not want to have to hire any more police officers because it is not necessary.

Capt. Gomes then commented that to try and put Mr. Charlot's mind at ease, his recommendations do not surround the restaurant businesses but are targeted more towards the high volume night clubs with 2:00 a.m. closings, not to a restaurant holding a wedding reception. In response to questions from Commissioner Wood, Capt. Gomes stated that it would be a non issue for places where liquor is served at tables with meals.

Lieut. LaFratta stated that he is a license agent who is on duty most every Friday. Many of the licensed establishments that serve food stop serving food at a certain point. A band will start to play and the establishment changes from a restaurant to a nightclub. He indicated that Tamboo is one of the clubs that after a certain hour turns into a night club. He further stated that the places with 2:00 a.m. closings do not serve food up until closing. Chairman Kelley stated that could be left to the detail officer based on the input from the license agents.

Commissioner Wood asked if this would vest too much discretion within the police department to perhaps over regulate some bars at the expense of others.

Chairman Kelley then asked the members what their feelings are on the proposed policy aside from the police detail part.

Commissioner Wood stated he is not opposed to stopping admittance at 1:00 a.m. and he has no reason to doubt that it would be good for public safety.

With regard to last call no later than 1:45 and stopping entertainment at 1:30 a.m., Commissioner Dansby commented that it would make more sense to stop serving alcohol at the same time the entertainment is cut off. He indicated he worked in this industry for ten years and at the establishment he worked at, they stopped serving alcohol at 1:20 a.m. because it would take 20 minutes to a half hour just to clear out the crowd. With the extra 15 or 20 minutes of serving drinks, the people are lined up at the bar and drinking as much as they can before they hit the road.

Capt. Gomes stated Mr. Dansby is touching on the issues that come up with his recommendations. He indicated that when lights go on, people get it in their minds it is time to go. Mr. Dansby stated you need a cooling down period before everyone leaves. Capt. Gomes commented that the mindset that the night is over never starts if the music is still playing.

Mr. Charlot spoke up and said that we cannot think that every little thing can be regulated and it has to be left to the individual bar owner. He stated you have to look at whether the laws are working, are they being enforced or do we need more laws.

Chairman Kelley stated there are different closing times at the establishments. He indicated he feels the no admittance after 1 a.m. will be huge and people will not be rushing from other communities to come to Brockton. Years ago when Brockton rolled back the closing hour to

1:00 a.m., the other communities were getting inundated with people coming from bars in Brockton.

Lieut. LaFratta stated he feels it will be extremely helpful by stopping the music early and closing the doors at 1:00 a.m. He indicated that many years ago when the hours were rolled back and then allowed to go back to 2:00 a.m., it was done with a gentlemen's agreement that they would not let any new customers in after 1:00 a.m. He stated this will put some teeth into the enforcement by having it in writing and the bar owners have to know that if they let people in after 1:00 a.m. they are putting their 2:00 a.m. license in jeopardy.

Commissioner McDuffy stated he feels they should go ahead with the no admittance after 1:00 a.m. Lieut. LaFratta stated the 2:00 a.m. license is a privilege and if it is important to the bar owner, they will have someone man the door to enforce the rule. Commissioner McDuffy then asked with regard to the detail officer, what would happen if there are way more people then expected or vice versa, not as many people as expected. Capt. Gomes stated that these are based on anticipated events or routine numbers. Chairman Kelley stated if more people come then expected, it would be up to the bar owner to shut the number off.

Chairman Kelley then reviewed the first part of the policy which applies to licensees with 2:00 a.m. closings and states:

1. No patrons are allowed admittance after 1:00 a.m. Any patron leaving the establishment, which includes going outside to smoke, is not allowed to re-enter after 1:00 a.m.
2. All Entertainment must cease at 1:30 a.m.
3. Last call must be made no later then 1:45 a.m.

A violation of any of the above will result in an automatic one hour rollback of the closing hour as well.

A motion was made by Commissioner Dansby to approve these measures which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

After reviewing the language concerning the mandatory police details, a motion was made by Commissioner McDuffy to accept this which motion was seconded by Commissioner Sullivan. With Commissioners McDuffy, Sullivan and Kelly voting in the affirmative and Commissioner Dansby and Wood voting opposed the motion carried.

Mr. Charlot who was still present asked how this would be enforced and Chairman Kelley stated it would be up to the owner of the liquor establishment to enforce it and the Commission would regulate their enforcement.

Commissioner Wood stated he is not opposed to the principal but expressed concern with the numbers and indicated it does make a difference on whether one or two detail officers would be needed but when it is applied and that people will feel threatened with the possibility of losing their license.

Capt. Gomes stated the recommendations are just loose working numbers because there is no way there will be an exact count. This would be put in place so there can be some mandates at some point if there are continuous violations.

Commissioner Dansby suggested this part of the policy be continued and Chairman Kelley agreed that perhaps the motion could be withdrawn to get more structure and have some discussions with the policing community to see what the standards are.

Commissioner Sullivan then withdrew his motion.

Attorney Feodoroff suggested that they can meet to discuss this in an open meeting.

A motion was made by Commissioner McDuffy to continue the portion of the policy concerning the police details which motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

Chairman Kelley then stated to Capt. Gomes that they would like this policy to go into effect immediately and asked if the license agents could hand deliver the notices and get a signature in order to avoid anyone from saying they didn't receive it. Capt. Gomes indicated he would have the agents deliver them when ready.

Chairman Kelley then reviewed section C which pertains to a review of the capacity at renewal time.

A motion was made by Commissioner Wood to approve section C which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

A motion was made by Commissioner McDuffy to approve section D which prohibits Under 21 Events. The motion was seconded by Commissioner Wood. All members voting in the affirmative, the motion carried.

With no further business to come before the Commission, a motion was made by Commissioner Wood to adjourn the meeting. The motion was seconded by Commissioner Dansby. All members voting in the affirmative, the meeting was adjourned.

Respectfully submitted,

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Joseph P. Kelley  
Acting Chairman

APPROVED:

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Paul D. Sullivan, Commissioner

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Bruce G. Dansby, Commissioner

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Joshua J. Wood, Commissioner

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Scott H. McDuffy, Commissioner

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Fred Fontaine, Alternate Commissioner

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Kathy Kenney, Alternate Commissioner